

APPENDIX A

Armstrong v. Brown, et al.

U.S. District Court, Northern District of California,

Case No. C 94-2307 CW

California Department of Corrections and Rehabilitation's
County Jail plan for addressing *Armstrong* class members
housed in County Jails, as ordered by the Federal District
Court on April 11, 2012.

Draft 6/21/12

The CDCR also does not intend for this document to provide any legal advice to Counties or their staff and reserves the right to make changes to this plan, based on future legislative actions or legal clarifications.

INTRODUCTION

This plan results from a finding by the Federal Court that state parolees and state inmates are under the jurisdiction of California Department of Corrections (CDCR) when housed in a County Jail and therefore are entitled to the same reasonable accommodations that CDCR provides within its institutions and facilities.

By complying with the Court's order of April 11, 2012, and developing this plan to track, and provide parolees and inmates with a grievance process, the CDCR does not concede or assent that it has control over the County Jails. County Jails are operated under the authority of the County Sheriffs.

DAILY JAIL LIST -

The CDCR will be responsible for sending an electronic message to the County's designee or legal counsel where a CDCR parolee has been newly booked.

CDCR will send notifications to impacted counties via a batch process to be disseminated daily at the same time each day, seven days a week.

The electronic notification will include, at minimum, for each Armstrong parolee:

- a. Full name.
- b. CDC number.
- c. The CDCR Disability Placement Program (DPP) code and definition of the DPP Code.
- d. Any housing accommodations as stated in DECS.
- e. Any programming accommodations as stated in DECS.
- f. Health Care Appliances.
- g. Last release date from prison.

The CDCR automated process will allow for counties to reply via email. This will also allow for CDCR to become aware of electronic messages that are returned undeliverable.

PAROLE HOLDS IN COUNTY JAILS

As part of the Notice of Rights (NOR) process:

1. Current operating procedures for the NOR will remain in place. Parole/Notice Agents shall check Disability and Effective Communication System (DECS), review field file and source documents and determine if any reasonable accommodations are needed. All information will be documented in Section I on the Notice and Request for Assistance at Parole Proceeding BPH form 1073.
2. The parole/notice agent will ask the parolee to self-identify any disability needs related to housing and programming and will document the information in the "Other" field in Section II of the BPH 1073.
3. Within three business days, while informing the parolee of his/her Notice of Rights/Notice of Charges, the parole/notice agent shall provide a parolee identified as an Armstrong class member with a Reasonable Modification or Accommodation Request CDCR form 1824 and explain to the parolee that they may use that form as a grievance process if they are a person with a disability and are not receiving a housing or programming accommodation that they need in the County Jail.

The parolee will also be provided a self-addressed/postage paid envelope (Business Reply Mail) to be used for sending a completed grievance form to the respective Regional ADA Unit.

Parolees will be informed of and encouraged to use the local facility's grievance process in addition to CDCR's grievance process.

4. DAPO staff shall assist parolees in completing a CDCR form 1824 when the parolee is unable to complete the form on his/her own due to a disability. The parole/notice agent will forward the completed grievance form to their Regional ADA Unit within one business day of receipt.

5. DAPO staff shall inform County Jail staff about a need for an accommodation or possible medical or mental health examination, no later than four business days after a parolee's date of arrival at the county jail. Any notification given to county jail staff shall be documented on the Notice and Request for Assistance at Parole Proceeding BPH form 1073 and recorded in the DECS.

GRIEVANCES and their COLLECTION (CDCR Form 1824)

Upon receipt of a CDCR 1824 grievance form, the notice/parole agent shall send the CDCR form 1824 to the Regional ADA Parole Unit within one business day.

The Regional ADA Parole Administrator shall ensure a grievance is entered into the DAPO tracking system and assigned to an ADA Unit staff member for a response. If the Administrator identifies the stated issue on the CDCR 1824 qualifies as an emergency, he/she shall ensure a response is completed within 5 calendar days. If the Administrator deems the CDCR 1824 is a non-emergency then he/she shall ensure a response is completed within 15 calendar days.

The Regional ADA Parole Administrator will ensure the grievance is forwarded as soon as possible and no later than three business days after receipt to the respective County's designee or legal counsel for subsequent notification to the County Jail housing the subject parolee.

1. For Armstrong class members who are scheduled to go "out to court" for more than three business days, the institutional Case Records staff will include a Request for Reasonable Modification or Accommodation Request CDCR form 1824 post card with the OTC packet at the prison facility where they are housed prior to be transferred out to court. The institution's Receiving and Release staff will give the post card to the inmate at the time of departure from the facility.

The post card will be self-addressed/postage paid, with the return address for DAPO HQ – Parole Litigation Compliance Unit (PLCU) in Sacramento, CA. The PLCU will verify the location of the inmate and notify the respective Regional ADA Unit, who will deploy a parole/notice agent to the jail to provide

the inmate with necessary forms within three business days of receipt of the post card.

2. The parole/notice agent shall provide an inmate identified as an Armstrong class member with a Reasonable Modification or Accommodation Request CDCR Form 1824 and explain to the inmate that they may use that form as a grievance process if they are a person with a disability and are not receiving a housing or programming accommodation that they need in the County Jail.
3. DAPO staff shall assist inmates in completing a CDCR form 1824 when the inmate is unable to complete the form on his/her own due to a disability. The parole/notice agent will forward the completed grievance form to their Regional ADA Unit within one business day of receipt.

The inmate will also be provided a self-addressed/postage paid envelope (Business Reply Mail) to be used for sending a completed grievance form to the respective Regional ADA Unit.

Parolees will be informed of and encouraged to use the local facility's grievance process in addition to CDCR's grievance process.

4. DAPO staff shall inform County Jail staff about a need for an accommodation or possible medical or mental health examination, no later than four business days after the date of arrival at the county jail. Any notification given to county jail staff shall be documented.
5. The Division of Adult Institutions (DAI), Americans with Disabilities Act (ADA) Associate Warden (AW) will notify the Regional ADA Unit of the Armstrong class member's name, number, county where inmate will be housed, and date of departure within three business days of departure from the CDCR institution.
6. The DAI ADA AW will be responsible for notifying the County's legal counsel (or designee) of the inmate's out-to-court status and ADA information that impacts the housing and programming of the inmate, within three business days

of departure from the CDCR institution. A copy of the notice sent to the County legal counsel (or designee) will then be forwarded to the Office of Legal Affairs, Class Actions Team– Attention: Armstrong Counsel, at CDCR Headquarters in Sacramento, and to the Plaintiff’s counsel simultaneously.

CDCR form 1824’s collected at the County Jail shall be sent to the Regional ADA Parole Unit for processing in accordance with this plan.

EMERGENCY APPEALS

If any CDCR staff person becomes aware, whether through a hearing, notice service, or otherwise, that an Armstrong class member being housed in a County Jail has an urgent or emergent situation (i.e., if it alleges a condition which is a threat to the parolee’s health or safety, or is necessary for participation or effective communication in a parole revocation proceeding) that person shall immediately notify the Regional ADA Parole Administrator, as well as the County’s designee or Legal Counsel using contact information provided by the County’s Legal Counsel.

The Regional ADA Parole Administrator shall respond to such a grievance within five calendar days of receipt and make their best efforts to ensure that necessary and reasonable accommodations are provided on an interim basis, and shall document their efforts on the CDCR 1824 form.

PARAGRAPH 5 RESPONSES

If plaintiff’s counsel raises concern regarding individual class members, those letters are to be sent simultaneously to the Office of Legal Affairs, Class Actions Team– Attention: Armstrong Counsel, at CDCR Headquarters in Sacramento, and to the respective county Legal Counsel.

With the assistance of the Regional ADA Parole Administrator, non-urgent issues will be addressed within 15 business days and urgent issues will be addressed within five business days.

PATTERNS OF ALLEGED MISCONDUCT OR DENIAL OF ADA ACCOMODATIONS

Each Regional ADA Parole Administrator shall review all CDCR 1824 grievances and determine if there is a pattern of denials of disability accommodations such as improper housing and/or denial of assistive devices to class members at a particular county jail facility.

If a pattern is discovered, the Regional ADA Parole Administrator must write to the County's Legal Counsel (or designee), within five days of discovery and provide the evidence alleged. The letter must be copied to plaintiff's counsel, care of the Office of Legal Affairs, Class Actions Team – Attention: Armstrong Counsel, at CDCR Headquarters in Sacramento.

The Regional ADA Parole Administrator shall assign one of their Parole Agent II, Supervisors to investigate the alleged deficiencies at the specific county jail. Such agent of CDCR shall audit and/or investigate the situation at the County Jail, to the extent possible, and determine what steps, if any, can be taken to remedy the situation. A written report shall be provided to the Office of Legal Affairs, Class Actions Team – Attention: Armstrong Counsel, at CDCR Headquarter in Sacramento.

ACCOUNTABILITY

Failure by CDCR staff to comply with any portion of this plan may result in employee referrals for accountability to a Supervisor and/or the Office of Internal Affairs for investigation. Parole Region and Institution employee accountability logs shall be used and maintained consistent with prior memorandums for documentation of employee accountability.

CDCR ADDRESSES

Office of Legal Affairs, Class Actions Team

– Attention: Armstrong Counsel
1515 S Street, Rm 314S
Sacramento, CA 95811

DAPO HQ – Litigation Compliance Unit

1515 S Street, Rm 212N
Sacramento, Ca 95811

Region 1

Regional ADA Unit

9825 Goethe Road, Ste 200
Sacramento, CA 95827-2572

Region 2

Regional ADA Unit

1515 Clay Street, 10th Floor
Oakland, CA 94612-1499

Region 3

Regional ADA Unit

320 W. 4th Street, Suite 1000
Los Angeles, CA 90013-9489

Region 4

Regional ADA Unit

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Diamond Bar, CA 91765-4002